HON'BLE SRI JUSTICE BILAL NAZKI
AND
HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.2371 of 2007

Date: 05-03-2007.

Between :

M/s.Kamdhenu Polymers Private Limited, Bangalore, rep. by its authorized representative.

.....Petitioner

And

The State of Andhra Pradesh, Commercial Tax Department, Hyderabad & another.

.....Respondents.

HON'BLE SRI JUSTICE BILAL NAZKI
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HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

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ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties.

Two vehicles were intercepted at a particular check-post and the Commercial Tax Officer detained the vehicles, according to him, in terms of Section 45 of the A.P.Value Added Tax Act, 2005 (for short 'the VAT Act'). The grievance of the writ petitioner is that after detaining the goods, the same were not released and he was ever asked to pay the tax or furnish the security.

Counters have been filed. The case of the learned Government Pleader appearing for the respondents is that the goods, according to the petitioner, were supposed to be transported from Bangalore to Jaipur, but the officer suspected on the basis of certain documents, that the goods were being transported from Bangalore to Secunderabad in Andhra Pradesh and the goods were not accompanied with various documents required,

including a transport pass, which the petitioner was supposed to secure from the first check-post after entering the State of Andhra Pradesh. These matters have not so far been settled finally by the Commercial Tax Officer and an enquiry is still pending.

After hearing the learned counsel for the parties and going through the record including the affidavit and counter-affidavit, we are of the view that at this stage the enquiry by the Commercial Tax Officer cannot be stalled and let him proceed with the enquiry and after enquiry, pass appropriate orders and if the petitioner feels aggrieved of such orders, he can take the remedies available to him under the VAT Act. But in the meantime, the goods have been detained almost two months before, therefore, we order the release of goods immediately on payment of money equivalent to the tax, had they been exigible to tax in Andhra Pradesh. The payment of tax by the petitioner shall be without prejudice to his rights in the enquiry pending before the Commercial Tax Officer. If the Commercial Tax Officer finds that the goods were not exigible to tax, he shall immediately refund the amounts collected by way of tax in pursuance to the order of this Court.

With these observations, the writ petition is disposed of.

BILAL NAZKI, J

5th March 2007.

NOOTY RAMAMOHANA

RAO, J
ajr